

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

ROBERT P. TAYLOR,

Plaintiff

V.

JEFF NEAL, *ET AL.*,

Defendants.

Case No. 5:21-CV-00133-RWS-JBB

## ORDER

Plaintiff Robert Taylor, proceeding *pro se*, filed the above-captioned civil action complaining of alleged violations of his constitutional rights. Docket No. 1 The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

On May 1, 2023, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed. Docket No. 6. After observing that Plaintiff had not contacted the Court for almost a year and a half and had thus failed to prosecute his case, the Magistrate Judge reviewed the pleadings and determined that Plaintiff failed to state a claim upon which relief may be granted. *Id.* Plaintiff received a copy of this Report on or before May 22, 2023 (Docket No. 7), but has not filed objections; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017) (citing *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1)). While the Report issued at a time when Plaintiff could refile within the statute of limitations, that is no longer the case; consequently, the Court has determined that the statute of limitations should be suspended for a reasonable time after entry of final judgment to permit Plaintiff to refile, should he choose to do so. *Millan v. USAA Gen. Indem. Co.*, 546 F.3d 321, 326 (5th Cir. 2008) (dismissal without prejudice which is tantamount to a

dismissal with prejudice because of the statute of limitations can be an abuse of discretion unless there is a showing of contumacious conduct).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report and Recommendation of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report and Recommendation are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

**ORDERED** that the Report and Recommendation of the Magistrate Judge (Docket No. 6) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-captioned civil action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted, and, alternatively, failure to prosecute or to obey an order of the Court. It is further

**ORDERED** that the statute of limitations is **SUSPENDED** for a period of sixty (60) days following the entry of final judgment. It is further

**ORDERED** that any pending motions are **DENIED**. A final judgment will be entered in accordance with this Order.

**So ORDERED and SIGNED this 26th day of September, 2023.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE